

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVID LYMAN SPALDING,)	
ID # 47371-177,)	
Movant,)	
)	
vs.)	No. 3:19-CV-1547-M-BH
)	
)	
ADMINISTRATIVE OFFICE OF THE)	
COURTS, et al.,)	
Respondents.)	

ORDER OF THE COURT ON RECOMMENDATION REGARDING
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The request for leave to proceed *in forma pauperis* on appeal is GRANTED.
- (X) The application for leave to proceed *in forma pauperis* on appeal (doc. 31) is **DENIED** because the Court certifies under Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith. In support of this certification, the Court adopts and incorporates by reference the order filed in this case on December 23, 2019 (doc. 20). Based on this order, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. The request to proceed *in forma pauperis* is also denied because the movant has failed to provide a signed affidavit or certificate of inmate trust account for the six-month period preceding his notices of appeal to show that he is a pauper. See 28 U.S.C. § 1915(a)(2).
- (X) Although this court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the movant may challenge this finding under *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the movant moves to proceed on appeal *in forma pauperis*, the prison authorities will be directed to collect the fees as calculated in this order.

(1) The plaintiff is assessed an initial partial fee of **\$34**. See 28 U.S.C. § 1915(b)(1).

(2) Thereafter, the movant shall pay \$504.66, the balance of the filing fee, in periodic installments. The movant is required to make payments of 20% of the preceding month's income credited to his prison account until he has paid the total filing fees of \$505.00. The agency having custody of the movant shall collect this amount from the trust fund account or institutional equivalent, when funds are available and when permitted by 28 U.S.C. § 1915(b)(2), and forward it to the clerk of the district court.

(3) If the movant files a motion to proceed *in forma pauperis* on appeal directly with the Fifth Circuit, the clerk shall serve a copy of this order on the inmate accounting office or other person(s) or entity with responsibility for collecting and remitting to the district court interim filing payments on behalf of prisoners, as designated by the facility in which the prisoner is currently or subsequently confined.

DATE: February 4, 2021.


BARBARA M. G. LYNN
CHIEF JUDGE